IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7089 of 2007()

CRIME NO.315 OF 2007 OF MUNAMBAM POLICE STATION

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: PETITIONER/4TH ACCUSED

SAMAD, S/O. HASSAN, AGED 28 YEARS
THOPPIL PARAMBU HOUSE, VEDIMARA, NORTH PARAVUR.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
(CRIME NO.315 OF 2007 OF MUNAMBAM POLICE STATION)

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7089 of 2007

Dated this the 28th day of November, 2007

ORDER

Application for anticipatory bail. Petitioner is the 4th accused. The crime was initially registered under Sections 406 and 420 r/w 34 I.P.C. The defacto complainant had alleged that accused 1 and 2 had taken away a vehicle belonging to his brother from his possession on the promise that repair shall be carried out and the vehicle shall be returned to him. The vehicle was not returned. He came to know that the vehicle had been left with the 3rd accused and from the 3rd accused it had gone into possession of the 4th accused. The 3rd accused had entrusted the petitioner the vehicle by representation that the vehicle has been purchased by him. It is in this context that the complaint was filed before the police by the defacto complainant. The vehicle has now been recovered from the possession of the 4th accused who asserted that it was the 3rd accused who handed over the vehicle to him. The petitioner, the 4th accused apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the true state of affairs and facts have not been revealed to the police and the police are showing no anxiety to ascertain the real truth. As a matter of fact, it was a vehicle transaction between the owner of the vehicle and one Amal, the 3rd accused. The said Amal had advanced amounts to the registered owner of the vehicle (the brother of the defacto complainant). There are some disputes between the parties to that civil transaction. The petitioner had come into possession of the vehicle legally and formally from the 3rd accused. Totally false and vexatious allegations are being raised by the defacto complainant to steal a march over the 3rd accused in the civil dispute which is pending between them regarding the vehicle transaction. The petitioner does not deserve to endure the trauma of arrest and detention. The petitioner is willing to co-operate with the Investigating Officer. He shall produce all the relevant documents before the Investigating Officer to satisfy him about the justice of his cause. The petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor refutes the contention raised, but does not oppose the application for anticipatory bail. Having considered all the relevant circumstances - I have perused the case diary which has been placed before me by the learned Public Prosecutor, I am satisfied that anticipatory bail can be granted to the petitioner subject to appropriate terms and conditions.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 05.12.2007. He shall be enlarged on regular bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 06.12.2007 and 07.12.2007. During that period, the Investigating Officer shall be entitled to interrogate the petitioner in custody and take all necessary steps for the proper

investigation of the case. Thereafter the petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 05.12.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 05.12.07.

(R.BASANT, JUDGE)

rtr/-